

### **REMARKS**

This paper responds to the Office Action mailed on February 24, 2005.

Claims 9, 10, 11, 12, and 13 are amended, claims 1-8 and 33-40 are canceled without prejudice or disclaimer; as a result, claims 9-32 are now pending in this application.

Claims 10, 11, and 13 are amended to conform their preambles to the parent claims, respectively. Claim 13 is further amended to correct a spelling\typographical error in the word "comprises." These amendments do not alter the scope of the claims and are not made in response to any substantive rejection.

### **Information Disclosure Statement**

Applicant submitted an Information Disclosure Statement and a 1449 Form with the application on January 14, 2004. Applicant respectfully requests that an initialed copy of the 1449 Form be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

### **Reservation of the Right to Swear Behind References**

Applicant maintains the right to swear behind any references which are cited in a rejection under 35 U.S.C. §§102(a), 102(e), 103/102(a), and 103/102(e). Statements distinguishing the claimed subject matter over the cited references are not to be interpreted as admissions that the references are prior art.

### **Double Patenting Rejection**

Claims 14-16 were rejected under the judicially created doctrine of double patenting over claims 8, 9, and 11 of U.S. Patent No. 6,844,253 in view of Akram et al. Applicant respectfully traverses.

U.S. Patent No. 6,844,253 issued from U.S. application 09/253,611 (parent application.) The present application is a divisional application based on the parent application and was filed before the issuance of U.S. Patent No 6,844,253.

Claims 14-16 of the present application are the same as the original claims 37-39 of the parent application. In an Office Action applied to the parent application, claims 37-39 were subject to a restriction requirement because claims 37-39 were indicated as claims drawn to an invention that is distinct from the invention claimed by the claims in the U.S. Patent No 6,844,253.

According to 35 U.S.C. 121, third sentence:

“A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, *shall not* be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.” (Emphasis added)

Thus, U.S. Patent No 6,844,253 shall not be used as a reference for the double patenting rejection against the present application. Accordingly, Applicant requests reconsideration and withdrawal of the rejection, and allowance of claims 14-16.

### **§102 Rejection of the Claims**

Claims 9 and 11 were rejected under 35 U.S.C. § 102(a) for anticipation by Akram et al.(U.S. Patent No. 6,548,392).

Independent claim 9 is amended to include features at least similar to the features of the allowed claim 17. Therefore, Applicant requests reconsideration and withdrawal of the rejection, and allowance of claim 9 and dependent claim 11.

### **§103 Rejection of the Claims**

Claims 10, 12, and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Akram et al. in view of Thomas (U.S. Patent No. 4,661,375).

Dependent claim 10 depends on independent claim 9. In view of the amendment to claim 9, Applicant believes that claim 10 is also allowable. Accordingly, Applicant requests reconsideration and withdrawal of the rejection, and allowance of claim 10.

Independent claim 12 is amended to include features at least similar to the features of the allowed claim 20. Therefore, Applicant requests reconsideration and withdrawal of the rejection, and allowance of claim 12 and dependent claim 13.

### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6969 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

PAUL A. FARRAR

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 349-9587

Date

24 May '05

By

Timothy B. Clise  
Reg. No. 40,957

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 24 day of May, 2005.

Name

Tina Kohut

Signature

24